

**MINUTES  
of the  
THIRD MEETING  
of the  
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**August 18-20, 2003  
Deming and Sunland Park**

Representative Daniel P. Silva, chairman, called the third meeting of the New Mexico finance authority (NMFA) oversight committee to order at 10:20 a.m. on Monday, August 18, 2003, in room 144 of the Mimbres Valley special events center in Deming.

**PRESENT**

Rep. Daniel P. Silva, Chair  
Rep. Dona G. Irwin (8/18, 8/19)  
Sen. Mary Kay Papen  
Sen. Shannon Robinson (8/18, 8/19)  
Rep. Raymond Ruiz (8/19, 8/20)  
Rep. Henry Kiki Saavedra  
Sen. H. Diane Snyder  
Rep. Sheryl Williams Stapleton (8/18, 8/19)  
Rep. Don Tripp

**Advisory Members**

Rep. Jose Campos (8/18, 8/19)  
Rep. Anna M. Crook  
Rep. Mary Helen Garcia  
Sen. Mary Jane M. Garcia (8/18, 8/19)  
Rep. Ben Lujan (8/19, 8/20)  
Sen. Leonard Lee Rawson  
Sen. Richard M. Romero  
Rep. Edward C. Sandoval  
Rep. James G. Taylor  
Rep. Robert White (8/18, 8/19)

**ABSENT**

Sen. Pete Campos, Vice Chair  
Sen. Manny M. Aragon  
Sen. Clinton D. Harden  
Sen. Don Kidd  
Rep. Brian K. Moore  
Rep. Earlene Roberts  
Sen. Nancy Rodriguez

Rep. Donald E. Bratton  
Sen. Dianna J. Duran  
Sen. Joseph A. Fidel  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Stuart Ingle  
Sen. Bernadette M. Sanchez  
Rep. Luciano "Lucky" Varela

(Attendance dates are noted for members who did not attend the entire meeting.)

**Staff**

Renee Gregorio, Legislative Council Service (LCS)  
Jon Boller, LCS  
Alfred Creecy, LCS

**Guests**

The guest list is in the meeting file.

Copies of written testimony and handouts are in the meeting file.

**Monday, August 18 — Mimbres Valley Special Events Center, Deming**

Senator John Arthur Smith (D-Dona Ana, Hidalgo, Luna and Sierra counties) and John Strand, city administrator, welcomed the New Mexico finance authority oversight committee to Deming. Mr. Strand spoke to the committee about ongoing capital projects, including a water line extension around Deming to network the system, for which the city received a \$450,000 grant and is borrowing another \$2 million from the NMFA. Another NMFA grant helped the city with its Peru Mill reclamation project, for which tailings have been reclaimed, but much cleanup remains. The city still needs \$300,000 to complete this project. Mr. Strand emphasized that the area mainly needs to expand infrastructure and to beautify. In response to a question on whether Deming is promoting tourism, Mr. Strand replied affirmatively, saying that Deming has always been on the way to somewhere else, and thus its residents have always realized the need to cater to strangers and travelers. He remarked that the city has an active tourism budget. Mr. Strand cited a project for which the legislature has funded phase 2, which is a project that has transformed an ugly pit in the downtown area into a much-used park, complete with quail and owl habitats.

Joan Atencio, mayor of Santa Clara, a village of 1,944 residents, detailed the emergency funding received by the village for repair of well pumps. She indicated that the village would be having a very difficult time without the assistance it has received from emergency grant funds. She added that the volunteer fire department is in the process of receiving a loan for the purchase of needed fire trucks. Ms. Atencio remarked that the major source of income for the village is generated from domestic charges to local residents for the sale of water.

Rudolfo Martinez, mayor of Bayard, a village of 2,534 residents, focused on the two loans that the village has received recently, one for a pumper truck and another for police units. He indicated that the village needs \$400,000 to upgrade wells to bring potable water into the existing system. Mr. Martinez said that the unemployment rate in Bayard is 18 to 20 percent. Even though the labor force is quite skilled, it remains difficult to attract businesses to the area.

David Diaz, mayor of Hurley, a village of 1,400 residents, said that the village has used grant money received from the NMFA to pave streets and improve water and wastewater systems. The town's only revenue is from water and sewer fees. Without the grants received, the village would not survive, he observed.

Priscilla Lucero, deputy director of the southwestern New Mexico council of governments, reported that most of the projects funded in the area she oversees have been for water and wastewater improvements. The area has received \$119,000 in emergency grant funding and currently has six applications in for planning or infrastructure projects. She reiterated the great needs of this area of the state.

Carlos Romero of the NMFA emphasized the fact that it is often difficult for these smaller towns and villages to take on debt; they do not have the gross receipts tax base with which to do so. The NMFA has created a mechanism to deal with severe economic downturns; for instance, it was able to increase grant money for Bayard by 20 percent, despite the fact that the revenue base has dropped so drastically.

In response to a question regarding how the council of governments works in this area, Ms. Lucero said that she does grant writing for the communities, amounting to about 15 grants each year. The council also assists in creating capital improvement plans by meeting with local governments to plan and prioritize projects. Representative Silva asked the mayors for a listing of projects recommended to the committee during the meeting.

Judy Ward of the Silver City-Grant county economic development corporation presented the committee with an overview of the difficulties and initiatives in developing southwest New Mexico. The area is composed of four counties — Catron, Grant, Hidalgo and Luna — amounting to 14 percent of the state's total land area. Ms. Ward reviewed the unemployment rates in those counties, with Luna county having the highest at 24.1 percent and the county average at 13.25 percent. In response to questions regarding the counties' workforce, Ms. Ward reported the workforce is plentiful, educated and dedicated. Much of the work is seasonal, which can include work for the months of February through October. Educational institutions in the four-county area include western New Mexico university, the global resource center, the small business development center and the Mimbres Valley learning center. The small business development center has 19 active clients currently, Ms. Ward noted. She delineated county populations and economic development projects for each of the four counties, including infrastructure development, a call center building and an industrial park. Ms. Ward mentioned that with the recent sale of Playas to New Mexico Tech, the area could expect approximately 200 jobs. In response to an earlier question by committee members concerning the effect on local governments if the gross receipts tax on food is eliminated, Ms. Ward indicated that eliminating this tax would be extremely detrimental to southwestern New Mexico.

Howard Hutchinson of the coalition of Arizona-New Mexico counties reported on the Gila river water project, beginning by giving a brief history of federal legislation affecting New Mexico's water. He spoke of the Colorado Basin Project Act, which authorized central Arizona and the Animas-La Plata projects that provide for water use in New Mexico, adding up to an additional 18,000 acre-feet of water for the Gila and San Francisco basins. New Mexico was drawn into the Arizona versus California lawsuit in the early 1960s, but Mr. Hutchinson stated that New Mexico did not come into the suit very prepared and has lagged behind as a state in claiming water and putting it to beneficial use. Federal legislation that calls for adjustments to the central Arizona project apparently ignores New Mexico's 18,000 acre-foot water allocation. Mr. Hutchinson added that none of what will happen in the southwestern part of the state in terms of economic development will be possible without water. He said that the area is mining its underground aquifer at present, but this has only a 40-year life.

Mr. Hutchinson believes that New Mexico could be a model for the west in terms of its development of ecological resources. Immediate fiscal needs include an appropriation of \$200,000 to complete the southwest New Mexico regional water plan, which is essential for establishing future needs of that 18,000 acre-feet of water. In the future, a storage facility will be needed for this additional water, at a cost of \$180 million. New Mexico will also need to repay its share of the central Arizona project's capital costs, at approximately \$30 to \$60 million. A regional water authority is being created to help in having a revenue-gathering capacity to cover these costs. Mr. Hutchinson reported that most of the costs will be covered by the water users

themselves. He added that his organization hopes that the legislature appropriates funding through the NMFA for the above projects.

State transportation issues and initiatives were discussed next in reports from Alvin Dominguez, district 1 engineer, Bud Hettinga, state transportation commissioner, and Rhonda Faught, secretary of transportation. Mr. Hettinga began by stating that the department of transportation needs \$100 million in recurring revenue dedicated to the state road fund. He added that he believes voters will not approve a tax increase unless is dedicated to roads. The top priority would be work on the Coors interchange.

Mr. Dominguez discussed projects in district 1, including the Sunland Park extension drive project, which received \$4 million in federal money for this \$12 million project. Phase 1 is currently under construction. Other projects he spoke of include the road from Santa Teresa to the Texas state line, a diesel lane, equipping the Santa Teresa port of entry, building a truck bypass at the Columbus port of entry, fencing at Antelope Wells and overlay of New Mexico state road 11, which received \$2 million from the legislature.

Ms. Faught highlighted roads with critical needs (see handout). Needs for improvements to roads in the state, as indicated in the statewide transportation improvement program, total \$1.4 billion. Ms. Faught reported that the state has fallen behind more and more on improving its roads. She said that the department is attempting to find ways to receive more federal funding, but that even without new funding, New Mexico must maintain its highways. Without this required maintenance, federal funding could be lost. She reported that new legislation could help the department accomplish this funding, as well as assistance from the NMFA. Ms. Faught stressed that the state's economy is dependent on its highway and transportation system and that something must be done to improve that system. She suggested that the state begin to find ways to tax trucks passing through it. She reported that New Mexico charges a \$15.00 overweight fee, regardless of the amount of that overweight. Montana, for example, charges a fee from \$250 to \$1,200, depending on degree of overweight.

In response to a question about obtaining more federal funding for roads, Mr. Hettinga pointed out that the state is obligated to match federal funds in order to continue to receive those funds. He added that the legislature has a responsibility to fund roads so that these matches are made, noting in particular the 23,000 miles of roads in the state that need to be improved for safety at present.

Ms. Faught ended the discussion by stressing the discrepancies between New Mexico and its neighboring states, citing the fact that Arizona spends \$1.3 million per mile, whereas New Mexico spends \$20,000 per mile on highway improvements.

#### **Tuesday, August 19 — Sunland Park Racetrack and Casino, Sunland Park**

Scott Scanland, lobbyist, welcomed the committee to Sunland Park racetrack and casino and fielded questions related to the gaming compact's effect on individual casinos. Senator Romero stressed that legislators need to discuss gaming's impact on the compacts and become better informed before passing any legislation.

Jaime Campos, executive director of the border authority, reported in detail on current projects of the authority (see handout). A truck bypass was completed at Santa Teresa in July for a total cost of \$230,000. Mr. Campos stated that the authority is working with local, state and federal agencies to co-locate commercial truck inspections to expedite trade at the Santa Teresa port of entry. He indicated that the way inspections are being conducted is the biggest obstacle to trade at present. Jim Creek, project manager at the authority, spoke of the uniqueness of the Columbus port of entry because those who cross at this entry point spend money in New Mexico. He added that the Columbus port of entry needs to double in size, and that the authority is working with the congressional delegation to improve the crossings at Santa Teresa, Columbus and Antelope Wells. Mr. Campos added that the Columbus port is the only one open 24 hours a day. In response to a question about expanded hours at Santa Teresa, Mr. Campos indicated that federal support is needed before this can happen. In terms of the Berrendo/Antelope Wells port of entry, the authority has been making efforts with the state of Chihuahua, with the main interest at this port being tourism and opening the corridor to Lordsburg. Mr. Campos spoke of the "super booth" checkpoint at the Mariposa/Nogales port of entry, which allows for faster inspections in one location.

Mr. Creek thanked legislative members for funding for a new office facility for the border authority, adding that the facility may end up being a multi-agency facility. He also mentioned that the passage of legislation has finally allowed for the harmonization of fees paid in Texas and New Mexico. Mr. Campos spoke about the overstaffing at the Santa Teresa port of entry; he indicated that the state motor transportation division could perform inspection duties on its own, that there is no need for federal inspectors to be there as well. Representative Lujan questioned if the authority has worked with the department of transportation and the congressional delegation on this issue and advocated that the authority follow up in this way. In response to a question from Representative Silva on what the inspections involve, Mr. Creek said that there is a specific protocol related to commercial vehicle safety that is the same throughout the United States. Licensure and insurance are also checked; state inspections are done for weight and permitting. A level 1 (full) inspection takes one hour; lesser inspections take from five to 15 minutes. Difficulties relate to how detailed and how often the inspections are done, some unnecessarily, to the 60- and 90-day stickers not functioning as they should, and to some reported forms of harassment of non-bilingual drivers. In response to a question about what this committee could do to assist the authority, Mr. Creek and Mr. Campos asked for the committee's support as well as the state's to persuade the feds to equalize New Mexico's inspection rate with El Paso's. They expressed the need to have the federal department of transportation off the border because the state of New Mexico can fulfill this function on its own.

David Harris, executive director, and Carlos Romero, director of intergovernmental relations, NMFA, presented reports related to programs and financing under the NMFA as well as the status of the Santa Ana loan. (See handouts for details of each NMFA program.) Mr. Harris gave the committee a breakdown of the number of projects and project amounts for each program. He added that new economic development initiatives are being brought forth, whereby a project is certified through the economic development department with gross receipt taxes pledged for infrastructure, such as with the cheese factory in Clovis, which was a collaborative effort.

Mr. Harris pointed out that 75 percent of the water in New Mexico is used by those who do not live in cities and are therefore not a major part of the rate base. Mr. Romero indicated that there are about 700,000 users and 200,000 ratepayers. Representative Lujan suggested that leveraging federal money by combining local and state funds whenever possible would help the state meet its diverse water needs.

Mr. Harris gave a report on the status of the Santa Ana refinancing loan, beginning by pointing out that tribal governments have had the authority to apply for financing through the NMFA since 1995. He said that Santa Ana invested \$100 million to buy the Tamaya resort, but could not sustain making payments after September 11, when usage of the resort dropped. The pueblo then took a short-term loan from Wells Fargo and was willing to offer a "limited waiver of sovereign immunity" in the case of this loan, waiving its right to any default in tribal court. Mr. Harris also detailed how the tribe would pay back the loan on a daily basis, amounting to \$15,000 being deposited daily in the NMFA debt service account, making it easier for the NMFA to know if the tribe could continue servicing its debt. At present, Mr. Harris stated, the loan application for Santa Ana is on hold, pending the tribe securing a BIA loan guarantee. Mr. Harris added that although the board of the NMFA will not move forward now with this loan, the loan would be very beneficial and that it is not a business loan, but a tribal refinancing loan.

In response to much legislator concern over the perception that this loan is gaming-related, Mr. Harris indicated that when Santa Ana first received its loan from Wells Fargo, it had no other significant revenue other than casino-related revenues, so Wells Fargo went for its main source of revenue. He added that this is no longer the case, but that Santa Ana generates income in all four of its enterprises (Hyatt Regency Tamaya resort, Twin Warriors golf course, Santa Ana golf course and Santa Ana Star casino). He said that the tribe never wanted to pledge its casino income. Mr. Romero said that the NMFA has completed four refinancing projects for other cities and counties and has helped those entities to save over \$2 million. He reminded the committee that the debt of NMFA is not the debt of the state. Mr. Harris said that the NMFA cannot finance a "gaming entity" and that this loan would not be doing that, but would be refinancing tribal debt that would be paid back in part through gaming revenue. Mr. Romero added that none of the debt the NMFA would be refinancing would be related to gaming infrastructure. In response to questions concerning the possibility of other tribes seeking refinancing, Mr. Harris said that many tribes would never even apply for a loan because they would not be willing to give up their sovereign immunity and that Wells Fargo gave Santa Ana the loan without asking the pueblo to give up that immunity and without the BIA guarantee.

Rachel King, deputy secretary of economic development, spoke to the committee about several economic development initiatives. The first is the economic development corporation, formed during the last legislative session as a public-private entity that would market to out-of-state companies, enticing them to come to New Mexico. Ms. King called this effort ambitious recruiting. She also talked about the certified community initiative, a program put into place in conjunction with economic development offices around the state, that allows communities to demonstrate that they have infrastructure in place to generate economic development. After meeting certain criteria and becoming certified, the department would then give money to the certified communities. The Native American economic development program involves working

with tribes and pueblos to set up incentives and financing packages for economic development projects on tribal lands. Finally, a military base planning and support office has been set up to work with communities with military facilities to ensure that they are safe.

In response to a question on the nature of the private equity fund, Ms. King stated that the fund was created in the state investment council office, with some money going to economic development projects. Projects will be recommended for funding that clearly bring jobs to the state, she added.

Della Duran, acting director of the Mexican affairs and trade division, informed the committee of the responsibilities of that division. These include increasing trade with Mexico, improving the state's relationship with the Mexican federal government as well as individual states and coordinating Mexican affairs activities among all state agencies with the goal of streamlining border development activities. Ms. Duran highlighted each of these responsibilities in detail (please see handout for specifics). She added that the governor's leadership position has allowed the department to relate to the Mexican government like never before. Representative Lujan expressed interest in bringing various factions together, including the governor's group on border issues and the legislative group. Because their issues are definitely related, he advocated coordination between the two groups. In response to committee member complaints about the way the visit from the president of Spain was handled by the governor's office, Senator Romero suggested that the governor be informed that legislators were disgruntled with the lack of advance notice about his visit.

Mariano Martinez, director of the Dona Ana mutual domestic water consumers association (MDWCA), and Karen Perez, Souder, Miller and Associates, reported on a regional water management and wastewater treatment project that will serve eight colonias in the north valley of Dona Ana county. Ms. Perez asked rhetorically why New Mexico is not practicing water re-use on a large scale, given the drought of the past several years. She added that the first priority is to protect the ground water, which means a good wastewater collection system is needed in this area. The Dona Ana MDWCA is looking at serving approximately 19,000 with this new system, which will cost about \$25 million. She added that the project is in the facility planning stage now and would like to be in construction by 2005. Representative Lujan asked if the association has the needed water rights to proceed, to which Mr. Mariano replied that at present they have 2,700 acre-feet, to which they can add leased or purchased surface water rights. In response to a question regarding receiving funding to make this project happen, Ms. Perez indicated that the Dona Ana MDWCA has applied for financing assistance from several sources, amounting to approximately \$67 million, including federal funding, rural utilities service funding, water trust board funding and a grant from the NMFA.

Jaime Aguilar of Sunland Park spoke briefly about the plans for the largest entertainment complex in the state, bringing new economic opportunities to the area. In response to a question about cost, Mr. Aguilar indicated that the second phase of the project will amount to \$4 million, the bridge construction, \$8 million, the border crossing, \$40 million, and the sports complex building on McNutt road, \$1.9 million. Other portions of the project include a city bus system, a river trail and a market for artisans.

The committee recessed at 5:20 p.m.

**Wednesday, August 20 — Sunland Park Racetrack and Casino, Sunland Park**

The committee approved the minutes from the last meeting, held on July 10-11 in Albuquerque.

Jeff Steinborn, field representative in southwest New Mexico for the office of Senator Jeff Bingaman, informed the committee of the work of the border security task force. He spoke of the current problem of undocumented immigrants getting across the 127 miles of mostly unprotected border. The task force was formed as a partner to the border authority to address the infrastructure and personnel shortages as well as other problems along the border. They have been meeting every other week for months and are close to having a report done on solutions. Issues the task force is looking at in its subgroups include border communications, barriers and surveillance, staffing and facilities, cooperation between Mexico and the U.S., training and education and emergency preparedness and public health. (See handout for details of each subgroup's specific problems and solutions under these categories.) Mr. Steinborn highlighted the need for sheriff substations in Columbus and Animas, adding that the border patrol in these areas is understaffed. He said that Palomas is the port of choice for smugglers. In response to a question about infrastructure needs and federal funding, Mr. Steinborn indicated that it would be beneficial for the committee to support the governor in directing funding to the border region. He added that there is a state role in federal funding as the money flows through the state for the state's use.

Representative Saavedra remarked that the state is dealing with two separate issues at the border: crime and terrorism. He said that the federal government spends billions to protect this country and that perhaps federal money now needs to be placed in the hands of smaller communities along the border for protection. Representative Lujan said that the majority of people crossing the border are doing so to improve their lives. Representative Silva added that many cities and towns in New Mexico could not function without these workers arriving from Mexico.

Ruben Segura, mayor of Sunland Park, answered committee questions about the municipality's unemployment rate (18 percent), population and efforts made to employ the local population at Sunland Park. He reported that the racetrack has gone out of its way to employ locals, but that 80 percent of the local population is Spanish-speaking. The average age of the population is 25. Mayor Segura stressed the attention that his community gives in trying to encourage the population to stay in Sunland Park, through re-education efforts and by fostering a spirit of trade and commerce. Representative Lujan encouraged Mayor Segura to work with the economic development department in terms of seeking funding with which to attract businesses to the area.

Mark Brock and Rosario Holguin, the Holguin group, spoke to the committee regarding that company's secure origins project, a technology project that would use software and computerized surveillance technologies for border inspection. Part of what the Holguin group has done is to work with industry in the border areas to move inspections to the plant itself, allowing for expediting of industry trucks. The company is working to use the Santa Teresa port of entry as



a model for this secure origins concept. They added that if maquiladoras knew that they would not have to wait for hours for inspections at that port, they would use it much more. By installing this system, this port could become a gateway into New Mexico, Mr. Brock remarked. Ms. Holguin stated that instituting secure origins at the port would have the effect of increasing use of the port, developing a center at Santa Teresa for monitoring truck crossings and making that port the center for monitoring trade.

Jan Carey of the motor transportation division of the department of public safety reported that it became clear that the Santa Teresa port of entry would not meet the transportation needs for commercial traffic as originally thought. The resulting idea is to build one facility by pooling all resources that would house the border authority, state police and tourism office, with a super booth installed at customs. Mr. Carey spoke about the inspections done on trucks, mainly for safety, and of the duplication of efforts between the state and federal inspectors. Jaime Campos stated that the motor transportation division is certainly prepared to take full charge of inspections, if this can be worked out with the federal department of transportation. Mr. Carey detailed inspection procedures, commenting on the issue of stickers and federal regulations, which require trucks with trailers to be re-inspected in their entirety, even with a 90-day sticker intact. In the end, Mr. Carey suggested that the state needs to put into law its ability to cite and enforce trucks leaving the trade zone. On the issue of duplication of state and federal efforts in terms of inspection, Mr. Campos said that the border authority has been working with the congressional delegation to make this known to them and he feels they are willing to help get this resolved.

Jerry Pacheco, marketing director, Santa Teresa real estate development, agreed to come to the next meeting of the oversight committee to speak on border development issues.

The committee adjourned at 12:20 pm.